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Short Title: Modify Protective Services Law/ALE.

(Public)

Sponsors:

Referred to:

March 7, 2019

1 AN ACT TO MAKE VARIOUS CHANGES TO THE PRIVATE PROTECTIVE SERVICES
2 ACT, TO ALLOW THE DEPARTMENT OF PUBLIC SAFETY TO RELOCATE
3 ALCOHOL LAW ENFORCEMENT AS SUITABLE STATE-OWNED PROPERTY IS
4 IDENTIFIED, AND TO CREATE A REGISTRY REQUIREMENT REVIEW FOR
5 CERTAIN SEX OFFENDERS.

6 The General Assembly of North Carolina enacts:

7
8 **PART I. PRIVATE PROTECTIVE SERVICES ACT CHANGES**

9 **SECTION 1.1.** G.S. 74C-3(a) reads as rewritten:

10 "(a) As used in this Chapter, the term "private protective services profession" means and
11 includes the following:

12 ...

13 (5) Detection of deception examiner. – Any person, firm, association, or
14 corporation ~~which~~ which, for a fee or other valuable consideration, uses any
15 device or instrument, regardless of its name or design, for the purpose of the
16 detection of deception or any person who reviews the work product of an
17 examiner including charts, tapes or other methods of record keeping for the
18 purpose of detecting deception or determining accuracy.

19 (5a) Electronic countermeasures profession. – Any person, firm, association, or
20 corporation which for a fee or other valuable consideration discovers, locates,
21 or disengages by electronic, electrical, or mechanical means any ~~listening of~~
22 the following:

23 a. Listening or other monitoring equipment surreptitiously placed to
24 gather information concerning any individual, firm, association, or
25 ~~corporation.~~ corporation.

26 b. Any device intended to block the transmission of any electronic signal.

27 ...

28 (8) Private detective or private investigator. – Any person who engages in the
29 profession of or accepts employment to furnish, agrees to make, or makes
30 inquiries or investigations concerning any of the following on a contractual
31 basis:

32 ...

33 f. ~~Protection of individuals from serious bodily harm or death.~~

34 ...



★ S 2 0 2 - C S B H F - 3 8 ★

(10) Close personal protection. – Any person, firm, association, or corporation which, for a fee or other valuable consideration, provides or offers to provide security measures to ensure the safety of a business executive, elected or appointed public official, celebrity, or other individuals who may be exposed to elevated personal risk because of the individual's employment, status, wealth, associations, or geographical location.

(11) Digital forensics examination. – Any individual, firm, association, or corporation which, for a fee or other valuable consideration, provides or offers to provide examination of digitally stored data to recover, image, analyze, or examine the data by using software to determine responsibility or reconstruct usage of the data.

(b) "Private protective services" shall not include any of the following:

...

(17) ~~A person engaged in (i) computer or digital forensic services or in the acquisition, review, or analysis of digital or computer based information, whether for the purposes of obtaining or furnishing information for evidentiary or other purposes, or for providing expert testimony before a court; or (ii) network or system vulnerability testing, including network scans and risk assessment and analysis of computers connected to a network, network, and routine service or repair.~~

(18) A person under contract with an occupational licensing board as defined by G.S. 93B-1 while performing an investigation solely for that board."

SECTION 1.1A. G.S. 74C-2 reads as rewritten:

"§ 74C-2. Licenses required.

...

(d) A private investigator who engages in close personal protection under G.S. 74C-3(a)(10) must possess a close personal protection endorsement. The board shall adopt rules setting forth the requirements to obtain a close personal protection endorsement. A licensed North Carolina private investigator, or permitted private investigator trainee who has provided at least five years of services in the protection of individuals from seriously bodily harm or death within the immediate five years prior to July 1, 2021, upon submission of sufficient proof of services to the board, shall be issued a close personal protection endorsement."

SECTION 1.2. G.S. 74C-4 reads as rewritten:

"§ 74C-4. Private Protective Services Board established; members; terms; vacancies; compensation; meetings.

...

(d) Each member of the Board, before assuming the duties of his or her office, shall take an oath for the faithful performance of his or her duties. A Board member may be removed at the pleasure of the authority making the original appointment or by the Board for misconduct, incompetence, or neglect of duty.

...

(f) The Board shall elect a ~~chairman, vice-chairman, chair, vice-chair~~ and other officers and committee ~~chairmen-chairs~~ from among its members as the Board deems necessary and desirable at the first meeting after July 1 of each year. The ~~chairman-chair~~ and ~~vice-chairman vice-chair~~ shall be selected by the members of the Board for a term of one year and shall be eligible for reelection. The Board shall meet at the call of the ~~chairman-chair~~ or a majority of the members of the Board at such time, date, and location as may be decided upon by a majority of the Board.

...."

SECTION 1.3. G.S. 74C-5 reads as rewritten:

"§ 74C-5. Powers of the Board.

In addition to the powers conferred upon the Board elsewhere in this Chapter, the Board shall have the power to do all of the following:

...

(13) Conduct investigations regarding unlicensed activity and, with the concurrence of the Secretary of Public Safety, issue cease and desist letters.

(14) Acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board.

(15) Adopt rules establishing standards for the use of any firearm or other weapon approved by the Board.

(16) Adopt and publish a code of professional conduct for licensees, registrants, certificate holders, or permit holders, the violation of which is grounds to suspend or revoke a license, registration, or permit pursuant to G.S. 74C-12."

SECTION 1.4. G.S. 74C-7 reads as rewritten:

"§ 74C-7. Investigative powers of the Secretary of Public Safety.

The Secretary of Public Safety for the State of North Carolina ~~shall have~~ has the power to investigate or cause to be investigated any complaints, allegations, or suspicions of wrongdoing or violations of this Chapter involving ~~individuals licensed, unlicensed individuals, licensed individuals, or individuals to be licensed, licensed~~ under this Chapter. The Secretary shall retain the authority to enforce the provisions of this Chapter and impose any penalty authorized by G.S. 74C-12(a) and G.S. 74C-17 against any person or entity who is under investigation for or charged with a violation of this Chapter even if the person or entity's license or registration has been surrendered or has lapsed. Any investigation conducted pursuant to this section is confidential and is not subject to review under G.S. 132-1 until the investigation is complete and a report is presented to the Board. However, the report may be released to the licensee after the investigation is complete but before the report is presented to the Board."

SECTION 1.5. G.S. 74C-8 reads as rewritten:

"§ 74C-8. License requirements.

...

(b) Application. – To apply for a license, an applicant must submit a verified application in writing to the Board that includes all of the following:

...

(7) Accompanying trainee permit applications only, a notarized statement signed by the applicant and his or her employer stating that the trainee applicant will at all times work with and under the direct supervision of a licensed private detective.

(c) Qualifying Agent. – A business entity, other than a sole proprietorship, that engages in private protective services is subject to all of the requirements listed in this subsection with respect to a qualifying agent. For purposes of this Chapter, a "qualifying agent" is an individual in a management position who is licensed under this Chapter and whose name and address have been registered with the Director. The requirements are:

...

(3) In the event that the qualifying agent upon whom the business entity relies in order to do business ceases to perform his or her duties as qualifying agent, the business entity shall notify the Director within 10 working days. The business entity must obtain a substitute qualifying agent within 30-90 days after the original qualifying agent ceases to serve as qualifying agent unless the Board, in its discretion, extends this the 90-day period, for good cause, for a period of time not to exceed three months, an additional 30 days upon the filing of a petition by the business entity and upon a hearing by the Board. The

Board may require the payment of a late fee for a business entity failing to obtain a substitute qualifying agent pursuant to the requirements of this subdivision.

(d) Criminal Record Check. – An applicant must meet all of the following requirements and qualifications determined by a background investigation conducted by the Board in accordance with G.S. 74C-8.1 and upon receipt of an application:

...

(2) That the applicant is of good moral character and temperate habits. The following shall be prima facie evidence that the applicant does not have good moral character or temperate habits: conviction by any local, State, federal, or military court of any crime involving the illegal use, carrying, or possession of a ~~firearm~~; firearm or other deadly weapon; conviction of any crime involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage; conviction of a crime involving ~~felonious~~ assault or an act of violence; conviction of a crime involving unlawful breaking or entering, burglary, larceny, or any offense involving moral turpitude; or a history of addiction to alcohol or a narcotic drug; provided that, for purposes of this subsection, "conviction" means and includes the entry of a plea of guilty or no contest or a verdict rendered in open court by a judge or jury.

...

(f) Issuance. – Upon a finding that the application is in proper form, the completion of the background investigation, and the completion of an examination required by the Board, the Director shall submit to the Board the application and the Director's recommendations. Upon completion of the background investigation, the Director may issue a temporary license pending approval of the application by the Board at the next regularly scheduled meeting. The Board shall determine whether to approve or deny the application for a license. Upon approval by the Board, a license will be issued to the applicant upon payment by the applicant of the initial license fee and the required contribution to the Private Protective Services Education Fund, and filing of a certificate of liability insurance ~~insurance~~ with the Board. The applicant must pay the initial license fee and make the required contribution to the Fund within 90 days from the date the applicant receives notice of pending licensure approval unless the Board, in its discretion, extends the 90-day period, for good cause, for an additional 30 days upon the filing of a petition by the applicant and upon a hearing by the Board. The Board may require the payment of a late fee for an applicant failing to pay the initial license fee or failing to make the contribution to the Fund pursuant to the requirements of this subsection."

SECTION 1.6. G.S. 74C-9 reads as rewritten:

"§ 74C-9. Form of license; term; renewal; posting; branch offices; not assignable; late renewal fee.

...

(e) The Board is authorized to charge reasonable application and license fees as follows:

...

(7) An application fee for a firearm registration permit for all applicants and licensees subject to G.S. 74C-13 not to exceed fifty dollars (\$50.00).

(8) A new, renewal, replacement, or reissuance fee for a firearm registration permit for all applicants and licensees subject to G.S. 74C-13 not to exceed thirty dollars (\$30.00).

...

(16) A late fee for a business entity subject to G.S. 74C-8(c)(3) or an applicant for licensure under G.S. 74C-8(f) not to exceed one hundred dollars (\$100.00).

Except as provided in G.S. 74C-13(k), all fees collected pursuant to this section shall be expended, under the direction of the Board, for the purpose of defraying the expenses of administering this Chapter.

(f) A license or trainee permit granted under the provisions of this Chapter may be renewed by the Private Protective Services Board upon notification by the licensee or permit holder to the Director of intended renewal, the payment of the proper fee, and evidence of a ~~policy of liability insurance~~ policy as prescribed in G.S. 74C-10(e).

The renewal shall be finalized before the expiration date of the license. In no event will renewal be granted more than three months after the date of expiration of a license or trainee permit.

...."

SECTION 1.7. G.S. 74C-10 reads as rewritten:

"§ 74C-10. Certificate of liability insurance required; form and approval; suspension for noncompliance.

...

(e) No security guard and patrol, armored car, or special limited guard and patrol license shall be issued under this Chapter unless the applicant files with the Board evidence of a ~~policy of liability insurance~~ liability insurance policy. The policy must provide for the following minimum coverage: fifty thousand dollars (\$50,000) because of bodily injury or death of one person as a result of the negligent act or acts of the principal insured or his or her agents operating in the course and scope of his or her employment; subject to said limit for one person, one hundred thousand dollars (\$100,000) because of bodily injury or death of two or more persons as the result of the negligent act or acts of the principal insured or his or her agents operating in the course and scope of his or her agency; twenty thousand dollars (\$20,000) because of injury to or destruction of property of others as the result of the negligent act or acts of the principal insured or his or her agents operating in the course and scope of his or her agency. If the licensee, a licensee or a trainee supervised by a licensee, other than a security guard and patrol, armored car, or special limited guard and patrol licensee, carries a firearm while engaged in private protective services activities, the licensee or trainee shall obtain a policy of liability insurance policy with a minimum coverage as specified above. A licensee or trainee is deemed to be "carrying a firearm" for purposes of this section while engaged in private protective services if the licensee or trainee has a firearm on the licensee's or trainee's person or in the automobile the licensee or trainee is using to perform private protective services. A licensee may provide coverage for a trainee under the licensee's supervision; however, failure of the licensee to provide coverage does not exempt the trainee from the requirements of this section.

(e1) The Board shall approve the form, execution, and terms of the liability insurance policy.

(f) An insurance carrier ~~shall have~~ has the right to cancel ~~such policy of liability insurance~~ a liability insurance policy upon giving a 30-day notice to the Board. Provided, however, that ~~such the~~ cancellation shall not affect any liability on the policy ~~which that~~ accrued prior thereto. ~~The policy of liability shall be approved by the Board as to form, execution, and terms thereon.~~

(g) ~~The holder of any trainee permit and persons~~ Persons registered pursuant to G.S. 74C-11 ~~shall not be~~ are not required to obtain a certificate of liability insurance.

...."

SECTION 1.8. G.S. 74C-11 is amended by adding a new subsection to read:

"(g) Notwithstanding the provisions of this section, during a State of Disaster or State of Emergency declared by the Governor of this State pursuant to Article 1 of Chapter 166A of the General Statutes, a licensee may employ a person properly registered or licensed as an armed security guard in another state provided the licensee, prior to deploying the armed security guard in this State, submits to the Director the name, address, and Social Security number of the armed

security guard, the name of the state of current registration or licensing of the armed security guard, proof of completion of the four-hour training course mandated by G.S. 74C-13(h)(1)a. and 14B NCAC 16 .0807(c)(1), administered by a North Carolina certified trainer, qualification by a North Carolina Private Protective Services Board certified firearms instructor based on the firearm the armed security guard intends to carry, meeting the qualification requirements approved by the Board and the Secretary of Public Safety for each firearm, and the Director approves the employment of the armed security guard in this State. Qualification shall be valid for a period of 12 months. The duration of the deployment of an armed security guard from another state by a licensee shall not exceed the declared State of Emergency or Disaster."

SECTION 1.9. G.S. 74C-12 reads as rewritten:

"§ 74C-12. Denial, suspension, or revocation of license, registration, or permit; duty to report criminal arrests.

(a) The Board may, after compliance with Chapter 150B of the General Statutes, deny, suspend or revoke a license, certification, registration, or permit issued under this Chapter if it is determined that the applicant, licensee, trainee, registrant, or permit holder has done any of the following acts:

(1) Made any false statement or given any false information in connection with any application for a license, certification, registration, or permit or for the renewal or reinstatement of a license, certification, registration, or permit.

...

(6) Engaged in or permitted any employee to engage in a private protective services profession when not lawfully in possession of a valid license or registration issued under the provisions of this Chapter.

...

(9) Committed an unlawful breaking or entering, assault, battery, or ~~kidnapping~~ kidnapping or violated any State or federal firearms law.

...

(24) Fraudulently held himself or herself out as employed by or licensed by the ~~State Bureau of Investigation~~ Department of Public Safety or any other governmental authority."

SECTION 1.10. G.S. 74C-13 reads as rewritten:

"§ 74C-13. Armed licensee or registered employee required to have firearm registration permit; firearms training.

(a) It shall be unlawful for any person performing private protective services duties to carry a firearm in the performance of those duties without first having met the qualifications of this section and having been issued a firearm registration permit by the Board. A licensee or proprietary employer described in G.S. 74C-3(b)(13) shall register any individual carrying a firearm within 30 days of employment. Before engaging in any private protective services activity, the individual shall receive any required training prescribed by the ~~Board~~ Board, unless specifically exempted from training by G.S. 74C-13.1.

...

(d2) A proprietary security organization that employs an armed security guard shall submit to the Board an application for a license on a form provided by the Board for that purpose. A proprietary security organization shall renew its license every two years.

...

(g) The Board may suspend, revoke, or deny a firearm registration permit if the holder or applicant has been convicted of any crime involving moral turpitude or any crime ~~involving the illegal use, carrying, or possession of a deadly weapon~~ set forth in G.S. 74C-8(d) or for violation of this section or rules promulgated by the Board to implement this section. The Director may summarily suspend a firearm registration permit pending resolution of charges ~~involving the illegal use, carrying, or possession of a firearm~~ lodged against the holder of the permit for any

crime involving moral turpitude, any of the offenses set forth in G.S. 74C-12, or any crime set forth in G.S. 74C-8(d).

(h) The Board and the Secretary of Public Safety shall establish a firearms training program for licensees and registered employees to be conducted by agencies and institutions approved by the Board and the Secretary of Public Safety. The Board and the Secretary of Public Safety may approve training programs conducted by a contract security company and the security department of a proprietary security organization, if the contract security company or security department of a proprietary security organization offers the courses listed in subdivision (1) of this subsection and if the instructors of the training program are certified trainers approved by the Board and the Secretary of Public Safety:

(1) The basic training course approved by the Board and the Secretary of Public Safety shall consist of a minimum of four hours of ~~classroom~~ training which shall include all of the following:

- a. Legal limitations on the use of ~~hand-guns~~ firearms and on the powers and authority of an armed security guard.
- b. Familiarity with this section.
- c. Range firing and procedure and ~~hand-gun~~ firearm safety and maintenance.

...

(o) The Board shall not knowingly issue a firearm registration permit to an individual who is prohibited by federal or State law from possessing a firearm."

SECTION 1.11. Article 1 of Chapter 74C of the General Statutes is amended by adding a new section to read:

"§ 74C-13.1. Exemption from firearms training requirements.

(a) The following persons may be exempt from the firearms training requirements of G.S. 74C-13(b):

- (1) Those who have successfully completed the North Carolina Basic Law Enforcement Training (BLET) and the first year of probationary employment.
- (2) Persons who have retired either by years of service or by medical disability, or separated in good standing as a sworn law enforcement officer from a federal, state, county, or municipal law enforcement agency that included in their duty the use and qualification of a firearm. Retirement or separation must have occurred within three years of application.
- (3) Military personnel who have been honorably discharged within three years of application and whose military occupational specialty (MOS) included Military Police or Criminal Investigative Division (CID) within three years of application.
- (4) Employees of a nuclear power plant that are required to comply with 10 C.F.R. § 73.55 Appendix B, "Training and Qualification of Security Personnel," as supplemented by the United States Nuclear Regulatory Commission Regulatory Guide 5.75.

(b) An applicant claiming one of the above exemptions from the 20-hour course of armed guard instruction must provide the Board the following documentation, as appropriate:

- (1) A copy of a North Carolina BLET training certificate and a letter from the applicant's department verifying that the probationary employment period has been completed.
- (2) Retirement documentation not older than three years verifying sworn status, or the card issued by the North Carolina Criminal Justice Training & Standards Division authorizing concealed carry under the United States Law Enforcement Officers' Safety Act of 2004.

(3) Documentation from a United States Department of Defense Form DD 214, Form DD 215, or Form NGB 22 noting a Military Police or CID military occupational specialty.

(4) Documentation of retirement or separation from a federal law enforcement agency with a United States Office of Personnel Management job series of 1811.

(5) Documentation of current, direct employment with a nuclear power plant located in North Carolina.

(c) The Board shall deny the exemption if the applicant fails to provide the documentation, as applicable, set forth above.

(d) When utilizing this exemption, the applicant must qualify within the first three attempts on the required firearm qualification course. If the applicant fails to qualify on both of these required courses, the applicant shall be required to undergo the entire 20-hour course of instruction.

(e) When utilizing this exemption, the applicant must complete the legal block of instruction required by G.S. 74C-13(h)(1) and the Board's administrative rules."

SECTION 1.12. G.S. 74C-15(a) reads as rewritten:

"(a) Upon the issuance of a license or trainee permit, a pocket identification card of design, size, and content approved by the Board shall be issued by the Board without charge to each licensee or trainee. The holder must have this card in his or her possession at all times when he or she is on duty and working within the scope of his or her employment. When a licensee or trainee to whom a card has been issued terminates his or her position as a licensee or trainee, the card must be surrendered to the Director of the Board within 10 working days thereafter."

SECTION 1.13. G.S. 74C-17 reads as rewritten:

"§ 74C-17. Enforcement.

...
(b) Any person, firm, association, or corporation or their agents and employees violating any of the provisions of this Chapter or knowingly violating any rule promulgated to implement this Chapter shall be guilty of a Class 1 misdemeanor. The Attorney General, or his or her representative, shall have concurrent jurisdiction with the district attorneys of this State to prosecute violations of this Chapter.

(c) In lieu of revocation or suspension of a license or permit under G.S. 74C-12, a civil penalty of not more than two thousand dollars (\$2,000) per violation may be assessed by the Board against any person or business who violates any provision of this Chapter or any rule of the Board adopted pursuant to this Chapter. In determining the amount of any penalty, the Board shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) Proceedings for the assessment of civil penalties under this section shall be governed by Chapter 150B of the General Statutes. If the person assessed a civil penalty fails to pay the penalty to the Board, the Board may institute an action in the superior court of the county in which the person resides or has his or her principal place of business to recover the unpaid amount of the penalty. An action to recover a civil penalty under this section shall not relieve any party from any other penalty prescribed by law."

SECTION 1.14. G.S. 74C-18(b) reads as rewritten:

"(b) The Director, in his or her discretion and subject to the approval of the Board, may issue a temporary permit to a nonresident who has complied with the provisions of G.S. 74C-10 and who is validly licensed in another state to engage in a private protective service activity incidental to a specific case originating in another state. A temporary permit may be issued for a period of no more than 30 days and may be renewed. A temporary permit may contain such restrictions which the Board, in its discretion, deems appropriate."

1 **SECTION 1.15.** G.S. 74C-21(b) reads as rewritten:

2 "(b) An off-duty law enforcement officer may be employed during his or her off-duty
3 hours by a licensed security guard and patrol company on an employer-employee basis. An
4 off-duty law enforcement officer shall not wear his or her police officer's uniform or use the
5 police equipment while working for a security guard and patrol company."

6 **SECTION 1.16.** G.S. 74C-23 reads as rewritten:

7 "**§ 74C-23. Acquisition or change of ownership or control of licensed firm, association, or
8 corporation.**

9 In the event a company, firm, or corporation licensed under this Chapter transfers ownership,
10 control, or a majority of assets to another person, firm, association, or corporation, the person,
11 firm, association, or corporation acquiring control or ownership shall have the following
12 responsibilities:

13 ...
14 (4) Provide to the Director ~~within 60-10~~ calendar days ~~from the~~ prior to the
15 effective date of the transaction the following: a list of any licensee and any
16 registrants affected by the transaction.

17 a. ~~A list of all registrants or licensees affected by the transaction.~~

18 b. ~~Written confirmation of completion of any changes necessary for the~~
19 ~~acquiring party to comply with the requirements of this Chapter or any~~
20 ~~applicable rules adopted by the Board on a form approved by the~~
21 ~~Director.~~

22 (5) Provide to the Director within 60 calendar days from the effective date of the
23 transaction written confirmation of completion of any changes necessary for
24 the acquiring party to comply with the requirements of this Chapter or any
25 applicable rules adopted by the Board on a form approved by the Director."

26 **SECTION 1.17.** G.S. 14-269.3 reads as rewritten:

27 "**§ 14-269.3. Carrying weapons into assemblies and establishments where alcoholic
28 beverages are sold and consumed.**

29 ...
30 (b) This section shall not apply to any of the following:
31 ...
32 (4) A person registered ~~or hired~~ as a security guard as defined in
33 G.S. 74C-3(b)(13) who is hired by the owner, lessee, or person or organization
34 sponsoring the event ~~event~~ or a person employed by a business licensed
35 pursuant to G.S. 74C-2 who is hired by the owner, lessee, or person or
36 organization sponsoring the event.

37 "

38 39 **PART II. DPS AUTHORITY TO RELOCATE ALE**

40 **SECTION 2.** The Department of Public Safety may begin to relocate the ALE
41 Headquarters and ALE regional offices as state-owned space is identified or recurring funding is
42 secured. Until recurring funding is secured or state-owned space is identified, the Department of
43 Public Safety shall continue to consolidate ALE and SBI regions and regional offices so that
44 district offices remain co-located.

45 46 **PART III. SEX OFFENDER REGISTRATION REQUIREMENT REVIEW**

47 **SECTION 3.5.** Article 27A of Chapter 14 of the General Statutes is amended by
48 adding a new section to read:

49 "§ 14-208.12B Registration requirement review.

50 (a) A person who is notified by the sheriff of the requirement to register based on a reportable
51 conviction based on an out-of-state conviction as provided in G.S. 14-208.6(4)(b) or a federal

conviction as provided in G.S. 14-208.6(4)(c), that is substantially similar to a North Carolina sexually violent offense as defined by G.S. 14-208.6(5), or an offense against a minor as defined by G.S. 14-208.6(1m), may petition the court to for a judicial determination of the requirement to register. The judicial review shall be by a superior court judge in the county where the petition is filed. The review under the section is limited to whether or not the person's out-of-state or federal conviction is substantially similar to a reportable conviction, as defined in G.S. 14-208.6(4)(a).

(b) The petition shall be filed in the county in which person resides, using a form created by the Administrative Office of the Courts. The form must be filed with the clerk of court within 30 days of receipt of the notification of the requirement to register. The person filing the petition must serve a copy of the petition on the Office of the District Attorney, and the Sheriff in the county where the person resides within three (3) days of filing. A hearing on the petition shall be scheduled at the next regularly scheduled term of Superior Court in the District. If a notified person does not register or file the form within thirty (30) days of receipt of the notification of the requirement to register, the person is in violation of N.C.G.S. § 14-208.11 for failure to register.

(c) At the hearing, the district attorney has the burden to prove by a preponderance of the evidence, that the person's out-of-state or federal conviction is final, and for an offense, which if committed in North Carolina, was substantially similar to a sexually violent offense as defined in G.S. 14-208.6(5), or an offense against a minor as defined in G.S. 208.6(1m). The perso may present evidence in support of the petition but may not contest the validity of the out-of-state or federal conviction. The court may review copies of the relevant out-of-state or federal criminal law and compare the elements of the out-of-state or federal offense to those purportedly similar to a North Carolina offense. If the district attorney meets the burden, the judge shall make a finding that the offense is substantially similar, and registration is required.

(d) A notified person shall not be required to register and may not be charged with failure to register or any other violation applicable to registrants set forth in Part 2 of Article 27A of Chapter 14 of the General Statutes, until the presiding superior court judge rules on the petition and, if applicable, orders that the notified person register under the sex offender registration statutes of this State or until 30 days has lapsed since notification of the requirement to register by the sheriff.

(e) Individuals on the registry on October 1, 2020, as a result of the substantial similarity determination made in accordance with N.C.G.S. § 14-208.6(4)(b), may file a petition for hearing pursuant subsection (a) of this section.

(f) This mechanism may not be used in lieu of the process set forth in § 14-208.12A to terminate the period of registration period.

(g) No employee of a Sheriffs' Office, District Attorney's Office, or the North Carolina State Bureau of Investigation shall incur any civil or criminal liability under North Carolina law as the result of the performance of official duties under this section."

PART IV. EFFECTIVE DATE

SECTION 3. Sections 1.1 and 1.1A of this act become effective July 1, 2021. Sections 2 and 3 are effective when this act becomes law. Section 3.5 of this act becomes effective October 1, 2020, and applies to all individuals notified to register, on or after that date. The remainder of this act becomes effective October 1, 2020.